

1982 No. 263

STATUTORY SICK PAY

The Statutory Sick Pay (General) Regulations
(Northern Ireland) 1982

Made 12th August 1982

Coming into operation 6th April 1983

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 3(3) and (4), 5(5) and (7), 6(2), 7(5), 8(1), 10(1) to (3), 19(4), 20, 22 and 28(1) and (3) to (5) of, and paragraph 1 of Schedule 1 to, and paragraphs 2(3) and 3(2) of Schedule 2 to, the Social Security (Northern Ireland) Order 1982(a) and of all other powers enabling it in that behalf, hereby makes the following regulations which correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and which accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980(b) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982 and shall come into operation on 6th April 1983.

(2) In these regulations—

“the Order” means the Social Security (Northern Ireland) Order 1982;

“Part II” means Part II of the Order;

and other expressions have the same meanings as in Part II.

(3) Any reference in these regulations to a numbered Article or Schedule is a reference to the Article or Schedule, as the case may be, of or to the Order bearing that number.

Persons deemed incapable of work

2.—(1) A person who is not incapable of work of which he can reasonably be expected to do under a particular contract of service may be deemed to be incapable of work of such a kind by reason of some specific disease or bodily or mental disablement for any day on which either—

(a) (i) he is under medical care in respect of a disease or disablement as aforesaid,

(ii) it is stated by a registered medical practitioner that for precautionary or convalescent reasons consequential on such disease or disablement he should abstain from work, or from work of such a kind, and

(iii) he does not work under that contract of service, or

(b) he is excluded from work, or from work of such a kind, on the certificate of the chief administrative medical officer of a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(c) or such other medical officer of that Board as the chief administrative officer may authorise and is under medical

(a) S.I. 1982/1084 (N.I. 16)

(b) 1980 c. 30

(c) S.I. 1972/1265 (N.I. 14)

observation by reason of his being a carrier, or having been in contact with a case, of infectious disease.

(2) A person who at the commencement of any day is, or thereafter on that day becomes, incapable of work of such a kind by reason of some specific disease or bodily or mental disablement, and

(a) on that day, under that contract of service, does no work, or no work except during a shift which ends on that day having begun on the previous day; and

(b) does no work under that contract of service during a shift which begins on that day and ends on the next,

shall be deemed to be incapable of work of such a kind by reason of that disease or bodily or mental disablement throughout that day.

Period of entitlement ending or not arising

3.—(1) In a case where an employee is detained in legal custody or sentenced to a term of imprisonment (except where the sentence is suspended) on a day which in relation to him falls within a period of entitlement, that period shall end with that day.

(2) A period of entitlement shall not arise in relation to a period of incapacity for work where at any time on the first day of that period of incapacity for work the employee in question is in legal custody or sentenced to or undergoing a term of imprisonment (except where the sentence is suspended).

Contract of service ended for the purpose of avoiding liability for statutory sick pay

4.—(1) The provisions of this regulation apply in any case where an employer's contract of service with an employee is brought to an end by the employer solely or mainly for the purpose of avoiding liability for statutory sick pay.

(2) Where a period of entitlement is current on the day on which the contract is brought to an end, the employer shall be liable to pay statutory sick pay to the employee until the occurrence of an event which, if the contract had still been current, would have caused the period of entitlement to come to an end under Article 5(2)(a), (b) or (d) or regulation 3(1), or (if earlier) until the date on which the contract would have expired.

Qualifying days

5.—(1) In this regulation "week" means a period of 7 consecutive days beginning with Sunday.

(2) Where an employee and an employer of his have not agreed which day or days in any week are or were qualifying days, the qualifying day or days in that week shall be—

(a) the day or days on which it is agreed between the employer and the employee that the employee is or was required to work (if not incapable) for that employer or, if it is so agreed that there is or was no such day,

(b) the Wednesday, or, if there is no such agreement between the employer and employee as mentioned in sub-paragraph (a),

(c) every day, except that or those (if any) on which it is agreed between the employer and the employee that none of that employer's employees is or was required to work (any agreement that all days are or were such days being ignored).

Calculation of entitlement limit

6.—(1) Where an employee's entitlement to statutory sick pay is calculated by reference to different weekly rates in the same period of entitlement or tax year, the

entitlement limit shall be calculated in the manner described in paragraphs (2) and (3), or, as the case may be, (4) and (5); and where a number referred to in paragraph (2)(b) or (d) or (4)(a)(ii) or (d)(ii) is not a whole number, it shall be calculated to the nearest hundredth, 5 thousandths being reckoned as one hundredth.

(2) For the purpose of determining whether an employee has reached his maximum entitlement to statutory sick pay in respect of a period of entitlement, there shall be calculated—

- (a) the amount of statutory sick pay to which the employee became entitled during the part of the period of entitlement before the change in the weekly rate;
- (b) the number by which the weekly rate (before the change) must be multiplied in order to produce the amount mentioned in sub-paragraph (a);
- (c) the amount of statutory sick pay to which the employee has so far become entitled during the part of the period of entitlement after the change in the weekly rate; and
- (d) the number by which the weekly rate (after the change) must be multiplied in order to produce the amount mentioned in sub-paragraph (c);
- (e) the sum of the amounts mentioned in sub-paragraphs (a) and (c); and
- (f) the sum of the numbers mentioned in sub-paragraphs (b) and (d).

(3) When the sum mentioned in paragraph (2)(f) reaches 8, the sum mentioned in paragraph (2)(e) reaches the entitlement limit.

(4) For the purpose of determining whether an employee has reached his maximum entitlement to statutory sick pay in respect of a tax year, there shall be calculated—

- (a) in respect of each period of entitlement (or part of such a period) in that tax year except the one which is current when the calculation is being made—
 - (i) the amount of statutory sick pay to which the employee became entitled, and
 - (ii) the number by which the weekly rate applicable to that period must be multiplied in order to produce the amount mentioned in head (i);
- (b) the sum of the amounts mentioned in sub-paragraph (a)(i) calculated in respect of all the periods of entitlement in question;
- (c) the sum of the numbers mentioned in sub-paragraph (a)(ii) calculated in respect of all the periods of entitlement in question;
- (d) in respect of the period of entitlement which is current when the calculation is being made—
 - (i) the amount of statutory sick pay to which the employee has so far become entitled, and
 - (ii) the number by which the weekly rate applicable to that period must be multiplied in order to produce the amount mentioned in head (i);
- (e) the sum of the sum mentioned in sub-paragraph (b) and the amount mentioned in sub-paragraph (d)(i);
- (f) the sum of the sum mentioned in sub-paragraph (c) and the number mentioned in sub-paragraph (d)(ii).

(5) When the sum first mentioned in paragraph (4)(f) reaches 8, the sum first mentioned in paragraph (4)(e) reaches the entitlement limit.

Time and manner of notification of incapacity for work

7.—(1) Subject to paragraph (2), notice of any day of incapacity for work shall be given by or on behalf of an employee to his employer—

- (a) in a case where the employer has decided on a time limit (not being one which requires the notice to be given earlier than the end of the first qualifying day in the period of incapacity for work which includes that day of incapacity for work) and taken reasonable steps to make it known to the employee, within that time limit; and
- (b) in any other case, on or before the seventh day after that day of incapacity for work.

(2) Notice of any day of incapacity for work may be given later than as provided by paragraph (1) where there is good cause for giving it later, so however that it shall in any event be given on or before the 91st day after that day.

(3) A notice contained in a letter which is properly addressed and sent by prepaid post shall be deemed to have been given on the day on which it was posted.

(4) Notice of any day of incapacity for work shall be given by or on behalf of an employer to his employer—

- (a) in a case where the employer has decided on a manner in which it is to be given (not being a manner which imposes a requirement such as is specified in paragraph (5)) and taken reasonable steps to make it known to the employee, in that manner; and
- (b) in any other case, in any manner, so however that unless otherwise agreed between the employer and employee it shall be given in writing.

(5) The requirements mentioned in paragraph (4)(a) are that notice shall be given—

- (a) personally;
- (b) in the form of medical evidence;
- (c) more than once in every 7 days during a period of entitlement;
- (d) on a document supplied by the employer; or
- (e) on a printed form.

Manner in which statutory sick pay may not be paid

8. Statutory sick pay may not be paid in kind or by way of the provision of board or lodging or of services or other facilities.

Time limits for paying statutory sick pay

9.—(1) In this regulation, “pay day” means a day on which it has been agreed, or it is the normal practice, between an employer and an employee of his, that payments by way of remuneration are to be made, or, where there is no such agreement or normal practice, the last day of a month.

(2) In any case where—

- (a) a decision has been made by an insurance officer, local tribunal or Commissioner in proceedings under Part II that an employee is entitled to an amount of statutory sick pay; and
- (b) the time for bringing an appeal against the decision has expired and either—
 - (i) no such appeal has been brought; or
 - (ii) such an appeal has been brought and has been finally disposed of,

that amount of statutory sick pay is to be paid within the time specified in paragraph (3).

(3) Subject to paragraphs (4) and (5), the employer is required to pay the amount not later than the first pay day after—

- (a) where an appeal has been brought, the day on which the employer receives notification that it has been finally disposed of;
- (b) where leave to appeal has been refused and there remains no further opportunity to apply for leave, the day on which the employer receives notification of the refusal; and
- (c) in any other case, the day on which the time for bringing an appeal expires.

(4) Subject to paragraph (5), where it is impracticable, in view of the employer's methods of accounting for and paying remuneration, for the requirement of payment referred to in paragraph (3) to be met by the pay day referred to in that paragraph, it shall be met not later than the next following pay day.

(5) Where the employer would not have remunerated the employee for his work on the day of incapacity for work in question (if it had not been a day of incapacity for work) as early as the pay day specified in paragraph (3) or (if it applies) paragraph (4), the requirement of payment shall be met on the first day on which the employee would have been remunerated for his work on that day.

Persons unable to act

10.—(1) Where in the case of any employee—

- (a) statutory sick pay is payable to him or he is alleged to be entitled to it;
- (b) he is unable for the time being to act; and
- (c) no committee has been appointed by the Office of Care and Protection with power to receive statutory sick pay on his behalf,

the Department may, upon written application to it by a person who, if a natural person, is over the age of 18, appoint that person to exercise, on behalf of the employee, any right to which he may be entitled under Part II and to deal on his behalf with any sums payable to him.

(2) Where the Department has made an appointment under paragraph (1)—

- (a) it may at any time in its absolute discretion revoke it;
- (b) the person appointed may resign his office after having given one month's notice in writing to the Department of his intention to do so; and
- (c) the appointment shall terminate when the Department is notified that a committee has been appointed by the Office of Care and Protection.

(3) Anything required by Part II to be done by or to any employee who is unable to act may be done by or to the person appointed under this regulation to act on his behalf, and the receipt of the person so appointed shall be a good discharge to the employee's employer for any sum paid.

Rounding to avoid fractional amounts

11. Where any payment of statutory sick pay is made and the statutory sick pay due for the period for which the payment purports to be made includes a fraction of a penny, the payment shall be rounded up to the next whole number of pence.

Days not to be treated as, or as parts of, periods of interruption of employment

12. In a case to which paragraph 3 of Schedule 2 applies, the day of incapacity for work mentioned in sub-paragraph (1)(b) of that paragraph shall not be, or form part of, a period of interruption of employment where it is a day which, by virtue of section 17(1) or (2) of the Social Security (Northern Ireland) Act 1975(a) or any regulations made thereunder, is not to be treated as a day of incapacity for work.

(a) 1975 c. 15

Records to be maintained by employers

13. Every employer shall maintain for 3 years after the end of each tax year a record, in relation to each employee of his, of—

- (a) any day in that tax year which was one of 4 or more consecutive days on which, according to information supplied by or on behalf of the employee, the employee was incapable by reason of some specific disease or bodily or mental disablement of doing work which he could reasonably be expected to do under any contract of service between him and the employer, whether or not he would normally have been expected to work on that day;
- (b) any day recorded under paragraph (a) for which the employer did not pay statutory sick pay to the employee;
- (c) the reason why he did not; and
- (d) the days which were qualifying days as between that employer and that employee in each period of entitlement which fell wholly or partly in that tax year.

Provision of information in connection with determination of questions

14. Any person claiming to be entitled to statutory sick pay, or any other person who is a party to proceedings arising under Part II, shall, if he receives notification from the Department that any information is required from him for the determination of any question arising in connection therewith, furnish that information to the Department within 10 days of receiving that notification.

Provision of information by employers to employees

15.—(1) In a case which falls within sub-paragraph (a), (b) or (c) of Article 20(3) (provision of information by employers in connection with the making of claims for sickness and other benefits), the employer shall furnish to his employee, in writing on a form approved by the Department for the purpose, the information specified in paragraph (2), (3) or (4) below respectively within the time specified in the appropriate one of those paragraphs.

(2) In a case which falls within sub-paragraph (a) (no period of entitlement arising in relation to a period of incapacity for work) of Article 20(3)—

- (a) the information mentioned in paragraph (1) is a statement of all the reasons why, under the provisions of paragraph 1 of Schedule 1 and regulations made thereunder, a period of entitlement does not arise; and
- (b) it shall be furnished not more than 7 days after the day on which the employer is notified by or on behalf of the employee of the employee's incapacity for work on the fourth day of the period of incapacity for work.

(3) In a case which falls within sub-paragraph (b) (period of entitlement ending but period of incapacity for work continuing) of Article 20(3)—

- (a) the information mentioned in paragraph (1) above is a statement of the reason why the period of entitlement ended; and
- (b) it shall be furnished not more than 7 days after the day on which the period of entitlement ended or, if earlier, on the day on which it is already required to be furnished under paragraph (4).

(4) In a case which falls within sub-paragraph (c) (period of entitlement expected to end before period of incapacity for work ends, on certain assumptions) of Article 20(3)—

- (a) the information mentioned in paragraph (1) above is a statement of the reason why the period of entitlement is expected to end; and

(b) it shall be furnished on or before the seventh day before the period of entitlement is expected to end, or, if later, the seventh day after the first day on which the employer could have known that the circumstances mentioned in sub-paragraph (c) of Article 20(3) existed.

(5) For the purposes of Article 20(3)(c)(i) (period for which the period of incapacity for work is to be assumed to continue to run) the prescribed period shall be 14 days.

Meaning of "employee"

16.—(1) In a case where, and in so far as, a person over the age of 16 is treated as an employed earner by virtue of the Social Security (Categorisation of Earners) Regulations (Northern Ireland) 1978(a), he shall be treated as an employee for the purposes of Part II and in a case where, and in so far as, such a person is treated otherwise than as an employed earner by virtue of those regulations, he shall not be treated as an employee for the purposes of Part II.

(2) A person who is in employed earner's employment within the meaning of the Social Security (Northern Ireland) Act 1975 but whose employer—

(a) does not fulfil the conditions prescribed in regulation 111(1)(b) of the Social Security (Contributions) Regulations (Northern Ireland) 1979(b) as to residence or presence in Northern Ireland, or

(b) is a person who, by reason of any international treaty to which the United Kingdom is a party or of any international convention binding the United Kingdom—

(i) is exempt from the provisions of the Social Security (Northern Ireland) Act 1975, or

(ii) is a person against whom the provisions of that Act are not enforceable, shall not be treated as an employee for the purposes of Part II.

Meaning of "earnings"

17.—(1) In this regulation "secondary contributor" means a person who is, or but for the provisions of the Social Security (Northern Ireland) Act 1975 relating to the lower earnings limit would be, liable to pay a secondary contribution under section 4 of that Act.

(2) For the purposes of Article 28(2), the expression "earnings" refers to gross earnings and includes any remuneration or profit derived from a person's employment, except any payment in so far as it is—

(a) a payment on account of the person's earnings in respect of that employment, which comprises or represents, and does not exceed in amount, sums which have previously been included in his earnings for the purposes of Article 28(2);

(b) a payment in respect of a period of holiday, where the sum paid is derived directly or indirectly from a fund to which more than one secondary contributor contributes and the management and control of which are not vested in those secondary contributors, or where the person making the payment is entitled to be reimbursed from such a fund;

(c) a payment of or in respect of a gratuity or offering—

(i) where the payment is not made directly or indirectly by the secondary contributor and the sum paid does not comprise or represent sums previously paid to the secondary contributor; or

(a) S.R. 1978 No. 401, as amended by S.R. 1980 No. 405

(b) S.R. 1979 No. 186, to which there are amendments not relevant to the subject matter of these regulations

- (ii) where the payment is not directly or indirectly allocated by the secondary contributor to the employee;
 - (d) any payment in kind or by way of the provision of board or lodging or of services or other facilities;
 - (e) a payment made to or by trustees, where—
 - (i) in the case of a payment to trustees, the share thereof which that person is entitled to have paid to him, or
 - (ii) in the case of a payment by trustees, the amount to be so paid, is or may be dependent upon the exercise by the trustees of a discretion or the performance by them of a duty arising under the trust;
 - (f) any payment of earnings in respect of employed earner's employment which a secondary contributor is required to make under regulation 3(2)(e) of the Occupational Pension Schemes (Recognition of Schemes) (No. 2) Regulations 1973(a);
 - (g) any payment by way of a pension;
 - (h) a payment of a fee in respect of employment as a minister of religion which does not form part of the stipend or salary paid in respect of that employment;
 - (i) a payment to defray or a contribution towards expenses incurred by persons for whom facilities are provided under section 15 of the Disabled Persons (Employment) Act (Northern Ireland) 1945(b) in travelling to and from the place where they are employed or where training is provided;
 - (j) a payment by way of or derived from shares appropriated under a profit sharing scheme to which the provisions of Chapter III of Part III of the Finance Act 1978(c) (profit sharing schemes) apply.
- (3) For the purposes of Article 28(2) the expression "earnings" includes also—
- (a) any sum payable by way of maternity pay or payable by the Department of Manpower Services in pursuance of Article 23 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976(d) in respect of maternity pay;
 - (b) any sum which is payable by the Department of Manpower Services by virtue of Article 42(3)(a) of the Industrial Relations (Northern Ireland) Order 1976(e) (hereafter in this paragraph referred to as "the No. 1 Order") in respect of arrears of pay and which by virtue of Article 25(1) of the Industrial Relations (No. 2) (Northern Ireland) Order 1976 is to go towards discharging a liability to pay maternity pay;
 - (c) any sum payable in respect of arrears of pay in pursuance of an order for re-instatement or re-engagement under the No. 1 Order;
 - (d) any sum payable by way of pay in pursuance of an order under the No. 1 Order for the continuation of a contract of employment;
 - (e) any sum payable by way of remuneration in pursuance of a protective award under the No. 1 Order;
 - (f) any sum payable to any employee under the Temporary Short-time Working Compensation Scheme administered under powers conferred by the Employment Subsidies Act 1978(f);
 - (g) any sum paid in satisfaction of any entitlement to statutory sick pay.

(a) S.I. 1973/1854
(b) 1945 c. 6 (N.I.)
(c) 1978 c. 42
(d) S.I. 1976/2147 (N.I. 28)
(e) S.I. 1976/1043 (N.I. 16)
(f) 1978 c. 6

(4) Where goods or services are supplied by an employee and earnings paid to or for the benefit of that employee in respect of that employment include the remuneration for the supply of those goods or services, and on that supply value added tax is chargeable, there shall, for the purposes of Article 28(2), be excluded from the calculation of those earnings an amount equal to the value added tax so chargeable.

(5) For the avoidance of doubt, in the calculation for the purposes of Article 28(2) of earnings paid to or for the benefit of an employee, there shall be disregarded—

- (a) any payment by way of a redundancy payment;
- (b) any specific and distinct payment of, or contribution towards, expenses actually incurred by an employee in carrying out his employment.

Payments to be treated or not to be treated as contractual remuneration

18. For the purposes of paragraph 2(1) and (2) of Schedule 2, those things which are included within the expression “earnings” by regulation 17 (except paragraph (3)(g) thereof) shall be, and those things which are excluded from that expression by that regulation shall not be, treated as contractual remuneration.

Normal weekly earnings

19.—(1) For the purposes of Article 28(2) and (4), an employee’s normal weekly earnings shall be determined in accordance with the provisions of this regulation.

(2) In this regulation—

“the critical date” means the first day of the period of entitlement in relation to which a person’s normal weekly earnings fall to be determined, or, in a case to which paragraph 2(c) of Schedule 1 applies, the relevant date within the meaning of that Schedule;

“normal pay day” means a day on which the terms of an employee’s contract of service require him to be paid, or the practice in his employment is for him to be paid, if any payment is due to him; and

“day of payment” means a day on which the employee was paid.

(3) Subject to paragraph (4), the relevant period (referred to in Article 28(2)) is the period between—

- (a) the last normal pay day to fall before the critical date; and
- (b) the last normal pay day to fall at least 8 weeks earlier than the normal pay day mentioned in sub-paragraph (a),

including the normal pay day mentioned in sub-paragraph (a) but excluding that first mentioned in sub-paragraph (b).

(4) In a case where an employee has no identifiable normal pay day, paragraph (3) shall have effect as if the words “day of payment” were substituted for the words “normal pay day” in each place where they occur.

(5) In a case where an employee has normal pay days at intervals of or approximating to one or more months (including intervals of or approximating to a year) his normal weekly earnings shall be calculated by dividing his earnings in the relevant period by the number of months in that period (or, if it is not a whole number, the nearest whole number), multiplying the result by 12 and dividing by 52.

(6) In a case to which paragraph (5) does not apply and the relevant period is not an exact number of weeks, the employee’s normal weekly earnings shall be calculated by dividing his earnings in the relevant period by the number of days in the relevant period and multiplying the result by 7.

(7) In a case where the normal pay day mentioned in sub-paragraph (a) of paragraph (3) exists but that first mentioned in sub-paragraph (b) of that paragraph

does not yet exist, the employee's normal weekly earnings shall be calculated as if the period for which all the earnings under his contract of service received by him before the critical date represented payment were the relevant period.

(8) In a case where neither of the normal pay days mentioned in paragraph (3) yet exists, the employee's normal weekly earnings shall be the remuneration to which he is entitled, in accordance with the terms of his contract of service, for, as the case may be—

- (a) a week's work; or
- (b) a number of months' work, divided by that number of months, multiplied by 12 and divided by 52.

Treatment of 2 or more employers as one

20.—(1) In a case where the earnings paid to an employee in respect of 2 or more employments are aggregated and treated as a single payment of earnings under regulation 12(1) of the Social Security (Contributions) Regulations (Northern Ireland) 1979, the employers of the employee in respect of those employments shall be treated as one for all purposes of Part II.

(2) Where 2 or more employers are treated as one under the provisions of paragraph (1), liability for the statutory sick pay payable by them to the employee shall be apportioned between them in such proportions as they may agree or, in default of agreement, in the proportions which the employee's earnings from each employment bear to the amount of the aggregated earnings.

(3) Where a contract of service ("the current contract") was preceded by a contract of service entered into between the same employer and employee ("the previous contract"), and the interval between the date on which the previous contract ceased to have effect and that on which the current contract came into force was not more than 8 weeks, then for the purposes of establishing the employee's maximum entitlement within the meaning of Article 7 (limitation on entitlement to statutory sick pay in any one period of entitlement or tax year), the provisions of Part II shall not have effect as if the employer were a different employer in relation to each of those contracts of service.

Treatment of 2 or more contracts of service as one

21. Where 2 or more contracts of service exist concurrently between one employer and one employee, they shall be treated as one for all purposes of Part II except where, by virtue of regulation 11 of the Social Security (Contributions) Regulations (Northern Ireland) 1979, the earnings from those contracts of service are not aggregated for the purposes of earnings-related contributions.

Penalties

22. Any person who without reasonable excuse contravenes or fails to comply with any provision of regulation 9, 13, 14 or 15 shall be guilty of an offence under Part II, and liable on summary conviction to a penalty not exceeding—

- (a) for any one offence, £200; or
- (b) for an offence of continuing any such failure after conviction, £20 for each day on which it is so continued.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 12th August 1982.

(L.S.)

W. Young

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations make miscellaneous provisions about statutory sick pay under Part II of the Social Security (Northern Ireland) Order 1982.

Regulation 2 sets out circumstances in which a person who is not incapable of work which he can reasonably be expected to do under a contract of service may be deemed to be so incapable.

Regulation 3 provides that an existing period of entitlement shall end with a day on which an employee is detained in legal custody or awarded a sentence (other than a suspended sentence) of imprisonment, and that no period of entitlement shall arise on a day on which an employee is in legal custody.

Regulation 4 provides that where an employee's contract of service is brought to an end solely or mainly to avoid liability for statutory sick pay, the employer is to be liable to pay statutory sick pay until the period of entitlement would have ended for some other reason, as provided by Article 5 of the Order or by regulation 3.

Regulation 5 makes provision for the days of the week which are to be "qualifying days" for the purposes of Article 6 in a case where the qualifying days have not been agreed between an employer and employee.

Regulation 6 sets out the method of calculating the "entitlement limit" for the purposes of Article 7 in a case where an employee's entitlement to statutory sick pay is calculated by reference to different weekly rates in the same tax year or period of entitlement.

Regulation 7 prescribes the manner in which, and the time within which, notice of any day of incapacity for work is to be given by or on behalf of an employee to his employer.

Regulation 8 provides that statutory sick pay may not be paid in kind or by way of the provision of board or lodging or of services or other facilities.

Regulation 9 provides that, in general, where the liability to pay an amount of statutory sick pay has been the subject of adjudication, it must be paid on the first pay day (or, where that is impracticable, the second) after the day when the time for bringing an appeal expires, or (as the case may be) the day on which the employer is notified of the result of an appeal, or is notified (where there is no further opportunity to apply for leave) that leave to appeal is refused.

Regulation 10 enables the Department in certain circumstances to appoint a person to act, in connection with statutory sick pay, on behalf of an employee who is unable to act for himself, and also provides for the termination of such an appointment.

Regulation 11 provides for the rounding up, to the next whole number of pence, of any payment of statutory sick pay, where the amount of statutory sick pay for the relevant period includes a fraction of a penny.

Regulation 12 provides for a case where a day is not to be, or to form part of, a period of interruption of employment under paragraph 3 of Schedule 2 to the Order.

Regulation 13 specifies the matters of which employers are required to keep records, and provides that they must be kept for 3 years after the tax year to which they relate.

Regulation 14 provides that the period within which information required for purposes of adjudication must be given to the Department is 10 days from receipt of notification that the information is required.

Regulation 15 makes provision about the information that is to be provided by employers to employees, and the time within which it is to be provided.

Regulations 16, 17 and 18 make provision about persons who are, or are not, to be treated as "employees", and remuneration that is, or is not, to be treated as "earnings" and "contractual remuneration", for the purposes of Part II of the Order.

Regulation 19 provides how "normal weekly earnings" are to be calculated.

Regulations 20 and 21 specify the cases in which 2 or more employers or contracts of service are to be treated as one.

Regulation 22 sets out the penalties for contraventions of regulations 9, 13, 14 and 15.